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DATE: June 18, 2009

TO: ISSUE FEE

COMPANY: U.S. PATENT AND TRADEMARK OFFICE

FAX NO.: (571) 273-2885 **TEL. NO.:** _____

FROM: Linda C. Gould (Cantor Colburn LLP)

OUR REF: GEM0093US **YOUR REF:** USSN 10/707,775

TOTAL NUMBER OF PAGES SENT 5
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COMMENTS: TO WHOM IT MAY CONCERN:

Please find enclosed the Base Issue Fee and Publication Fee Transmittal Form for U.S. Serial No. 10/707,775. Also, find enclosed a "FEE ADDRESS" INDICATION FORM (1page) and a "COMMENTS ON STATEMENT OF REASONS FOR ALLOWANCE."

Thank you,
CANTOR COLBURN LLP

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Appln. No.10/707,775
Docket No.140525/GEM-0093

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appln. No.: 10/707,775 : Confirmation No.: 1774
Applicant: Michael Ronald Miller: Group Art Unit: 3737
Filed: January 12, 2004 : Examiner: Ramirez, John Fernando
Docket No.: 140525/GEM-0093 :

For: RESPIRATORY MEASUREMENT SYSTEM AND METHOD RELATED THERETO

June 17, 2009

Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

COMMENTS ON STATEMENT OF REASONS FOR ALLOWANCE

Sir:

Provided herewith are comments on the Examiner's Statement of Reasons for Allowance presented in the Notice of Allowance dated March 30, 2009.

CERTIFICATE OF MAILING OR TRANSMISSION

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Appln. No. 10/707,775
Docket No. 140525/GEM-0093

The Examiner remarks that Claims 7, 8, 20-22 are allowed for reasons set forth in Paper No. 20090224, page 2.

While Applicant agrees that presented claims pertain to allowable subject matter, Applicant respectfully submits that to the extent that the Examiner's remarks imply, suggest or state that certain limitations or combinations not found in the prior art of record relied upon are or may be present in each and every allowable claim, whether or not specific language to that effect is found in every allowable claim, the record as a whole must be considered in addition to the Examiner's remarks, and, to the extent that the record as a whole is clear and complete, it shall control the interpretation of any and all allowable claims.

More specifically, the Examiner's statement of reasons may imply that features found in the Examiner's reasons only, in the specification only, in the dependent claims only, or in some but not all independent claims only, are part of all of the allowable claims, when in fact the record clearly reflects that there are claims not so limited. For example, the Examiner's reasons refers to "an x-ray tabletop", while the allowed claims merely refer to "a tabletop". While Applicant acknowledges that the allowed claims do include language directed to "x-rays", Applicant does not concede that the claimed "tabletop" necessarily includes structure that may be specific only to an "x-ray tabletop". Accordingly, allowed claims that do not recite "an x-ray tabletop" are not so limited.

Respectfully submitted,
CANTOR COLBURN LLP
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